

Sixth Appellate District

San Jose, California

MONDAY, MARCH 21, 2005

H027604 PEOPLE v. ZARCO

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed March 21, 2005

H027591 NGUYEN-PLECQ v. NGUYEN

The judgment is affirmed. Each party to bear her own costs on appeal. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed March 21, 2005

TUESDAY, MARCH 22, 2005

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and S. Nasson, Deputy Clerk.

H027375 PEOPLE v. JONES

Cause called and argued by William Robinson appearing for Appellant and by Christopher Grove, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H026789 PEOPLE v. STREETER

Cause called and argued by Carlo Andreani appearing for Appellant and by Michele Swanson, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027202 PEOPLE v. BJERKHOEL

Cause called and argued by Paul Kleven appearing for Appellant and by Ronald Niver, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H023394 PEOPLE v. PENA, et al.

Cause called and argued by Barbara Michel appearing for Appellant Perez, by Eileen Kotler appearing for Appellant Castaneda, by Peter Gold appearing for Appellant Patlan and by Bridget Billeter, Deputy Attorney General, appearing for Respondent. No appearances made on behalf of Appellants Carrasco and Pena. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, March 22, 2005 (continued)

H025822 SULLIVAN v. ZUMSTEG

Cause called and argued by Robin Yeamans appearing for Appellant. No appearance was made for Respondent. Cause ordered submitted. Court recesses until the 1:30 p.m. calendar.

H027584 PEOPLE v. HUGGINS

The judgment and sentence are affirmed. (not published)
(McAdams, J.; I concur: Bamattre-Manoukian, Acting P.J.;
Concurring opinion by Mihara, J.)
Filed March 22, 2005

H027120 PEOPLE v. RUIZ

With regard to Count 4, the minute orders located on pages 175, 179, and 181 of the Clerk's Transcript and the abstract of judgment are ordered amended to reflect a conviction for possession of cocaine. (Health & Saf. Code, § 11350.) As to Count 4, the abstract of judgment is ordered amended to reflect a concurrent 16-month term as to Count 4.

With regard to Count 5, the minute orders located on page 175, 179, and 181 of the Clerk's Transcript are ordered amended to reflect the trial court's decision to convict defendant for possession of more than 28.5 grams of marijuana (§ 11357, subd. (c)), as a lesser offense of possession of marijuana for sale (§ 11359) and its decision to impose a concurrent 16-month term as to Count 5. As to Count 5, the abstract of judgment is ordered modified to reflect a conviction for possession of no more than 28.5 grams of marijuana (Health & Saf. Code, § 11357, subd. (b).) As to Count 5, the abstract of judgment is modified to reflect a stayed one dollar (\$1) fine for the section 11357, subdivision (b) violation.

As so modified and amended, the judgment is affirmed. The trial court is ordered to send a certified copy of the modified and amended abstract of judgment to the Department of Corrections. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed March 22, 2005

H026588 MATA v. MATA, as Trustee

The order is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)
Filed March 22, 2005

Sixth Appellate District

San Jose, California

Tuesday, March 22, 2005 (continued)

H026986 PEOPLE v. DO

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed March 22, 2005

H027462 PEOPLE v. STOKES

The order for commitment pursuant to section 2970 filed May 7, 2004, is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)
Filed March 22, 2005

H026601 GARDENHIRE v. SUPERIOR COURT OF SANTA CLARA COUNTY;
FRANCESCONI, et al.

The petition for writ of mandate is denied. (published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed March 22, 2005

H027842 PEOPLE v. LEAHY

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)
Filed March 22, 2005

H027434 STUDENT LOAN MARKETING ASSOCIATION v. HERDMAN

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)
Filed March 22, 2005

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California.
Present: Rushing, P.J.; Premo, J.; Elia, J.; and R. W. Norvelle, Deputy Clerk.

H027219 PEOPLE v. HANDS

Cause called and argued by Gene D. Vorobyov appearing for Appellant and by Aileen Bunney, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, March 22, 2005 (continued)

H026159 PEOPLE v. GARCIA, et al.

Cause called and argued by C. Elliott Kessler appearing for Appellant Garcia, by Philip M. Brooks appearing for Appellant Rios and by Christopher J. Wei, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H026980 PEOPLE v. NGUYEN

Cause called and argued by Arthur Dudley appearing for Appellant and by Nancy H. Tung, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027551 PEOPLE v. ROYSTON

Cause called and argued by Margaret Marr appearing for Appellant and by Rafael A. Sivilla, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027098 MIGUEL MELENDREZ, et al. v. ROYAL REALTY

Cause called and argued by Maryan Karson appearing for Appellant and by Benjamin Levinson appearing for Respondent. Cause ordered submitted.

Court stands in adjournment.

WEDNESDAY, MARCH 23, 2005

H026872 MARIAGE OF BEREZNAK and HEMINGER

The order is affirmed. Respondent's motion for sanctions is denied, but she is entitled to her costs on appeal. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed March 23, 2005

H027570 PEOPLE v. STEVEN B.

The disposition order of May 20 2004, is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed March 23, 2005

H026806 PEOPLE v. PHILLIPS, JR.

The appeal is dismissed. (not published)

(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed March 23, 2005

Sixth Appellate District

San Jose, California

Wednesday, March 23, 2005 (continued)

H027384 BROWN v. YOUNG, et al.

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed March 23, 2005

H027549 BROWN v. HUNTOON, et al.

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed March 23, 2005

H027242 PEOPLE v. BEESON

By the Court:

Upon the court's own motion, the submission order in the above-entitled matter dated January 11, 2005, is hereby vacated pending further review of the record. The clerk of the superior court is directed to forward the file in the above-entitled matter to this court forthwith. Upon review of the superior court file, the matter will be resubmitted and the original file returned to the superior court.

Dated: March 23, 2005 Rushing, P.J.

THURSDAY, MARCH 24, 2005

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Elia, J.; Mihara, J.; and J. Michel Casique, Deputy Clerk.

H026546 PEOPLE v. JIANG

Cause called and argued by Gerald F. Uelmen appearing for Appellant and by Ryan B. McCarroll, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H026441 PAJARO VALLEY WATER MANAGEMENT AGENCY v. MCGRATH

Cause called and argued by Robert E. Dougherty appearing for Appellant and by Stephen N. Roberts appearing for Respondent. Cause ordered submitted.

H026738 PAJARO VALLEY WATER MANAGEMENT AGENCY v. MCGRATH

Cause called and argued by Stephen N. Roberts appearing for Appellant and by Robert E. Dougherty appearing for Respondent. Cause ordered submitted.

Mihara, J. steps down and McAdams, J. takes the bench.

Sixth Appellate District

San Jose, California

Thursday, March 24, 2005 (continued)

H026145 SULLIVAN, as Trustee, etc., et al. v. DORSA, as Co-Trustee, etc., et al.; ENGLES, as Referee, etc., et al.

Cause called and argued by Kathleen O'Reilly appearing for Appellants and by Gregory John Charles appearing for Respondents Maiorana, et al. and by Jules Solomon Zeman appearing for Respondents Grubb & Ellis Co., et al. Cause ordered submitted.

McAdams, J. and Elia, J. step down and Premo, J. and Mihara, J. take the bench.

H024607 PEOPLE v. BREW

Cause called and argued by Dennis Riordan appearing for Appellant and by Gregg E. Zywicke, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Premo, J. and Mihara, J. step down and McAdams, J. and Walsh, J.* take the bench.

(*Judge of the Santa Clara Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

H024607 PEOPLE v. HUTCHINSON

Cause called and argued by William Robinson appearing for Appellant and by Morris Lenk, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H025555 FYKE v. THE SCREEN SHOP, et al.

Cause called and argued by Richard Falcone appearing for Appellant and by Laurence Mitchell appearing for Appellants. Cause ordered submitted.

The Court stands in adjournment.

H026781 CHRISTIAN v. STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS, et al.

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed March 24, 2005

Sixth Appellate District

San Jose, California

Thursday, March 24, 2005 (continued)

H027006 PEOPLE v. SOVA, JR.

The judgment is reversed. The matter is remanded to the trial court for further proceedings not inconsistent with this opinion. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed March 24, 2005

H024448 VOGEL, et al. v. FELICE

The order under review is reversed with directions to grant the special motion to strike. Costs on appeal to appellant. (published)

(Rushing, P.J.; We concur: Elia, J., Mihara, J.)

Filed March 24, 2005

H025985 RODRIGUES v. SUPERIOR COURT; JOAQUIM, et al.

The petition for writ of mandate, prohibition, or other appropriate relief is denied. The temporary stay order is vacated. Each party shall bear his or her own costs in this original proceeding. (published)

(Rushing, P.J.; We concur: Elia, J., Mihara, J.)

Filed March 24, 2005

H027790 PEOPLE v. GARD

We order the judgment modified to strike the order that defendant pay \$500 in attorney's fees. The modified judgment is affirmed. The trial court shall prepare an amended abstract of judgment deleting the stricken fees order and forward a certified copy of the amended abstract to the Department of Corrections. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed March 24, 2005

H027656 In re GRACE M., et al; DFCS v. REBECCA C.

The orders are affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed March 24, 2005

Sixth Appellate District

San Jose, California

FRIDAY, MARCH 25, 2005

H026953 PEOPLE v. OSIO

By the Court:

Upon the court's own motion, the submission order in the above-entitled matter dated March 3, 2005, is hereby vacated. The court by separate letter issued March 18, 2005, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.

Dated: March 25, 2005 Premo, Acting P.J.

H027489 MARRIAGE OF BEREZNAK and HEMINGER

The order of April 30, 2004, is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed March 25, 2005

H026988 PEOPLE v. MARTINEZ

(Filed order modifying opinion.) There is no change in the judgment. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed March 25, 2005

H027128 PEOPLE v. ADKINS

(Filed order modifying opinion.) There is no change in judgment. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed March 25, 2005

H026462 PEOPLE v. ROMAN

(Filed order modifying opinion.) There is no change in judgment. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed March 25, 2005